

A. **[§101.52]** Script: Conduct of Jurisdiction Hearing

(1) *Introduction*

[Mr./Ms.] [name of clerk], please swear all persons who may wish to speak during the proceedings.

(2) *Appointment of attorney for parent(s) or guardian(s)*

[If parent(s) or guardian(s) is/are unrepresented by counsel]

You have a right to be represented by an attorney during this jurisdiction hearing, and during all other hearings in the juvenile court. *[If you want to employ a private attorney, the court will give you an opportunity to do so./The court has reviewed the financial declaration of [parent(s)/guardian(s)] and finds that [he/she/they] [is/are] entitled to appointment of counsel. At this time, the court appoints [name of attorney] to represent [him/her/them].]*

☛ JUDICIAL TIP: When the attorney is on the staff of a government agency, it is the office, not the individual attorney, who is being appointed.

[If parent(s) or guardian(s) waive(s) counsel]

This is a serious matter. If the court finds that the allegations in the petition are true, there is a possibility that [name of child] may be placed outside your home and that, eventually, your parental rights may be terminated. Do you have any questions about your right to have an attorney represent you at this hearing? Understanding this right and the possible consequences of this hearing, do you want to proceed at this time without an attorney?

[When applicable, add]

The court now finds that the [parent(s)/guardian(s)] [has/have] intelligently waived [his/her/their] right to counsel at this hearing.

(3) *Attorney for child*

The court has read and considered the documentary material submitted by the Department of Social Services for the limited purpose of assessing whether to appoint counsel for the child. Would anyone like to be heard on this issue?

[After hearing evidence, if any, on issue of child's need for attorney]

The court finds, based on the facts of this case, that *[there is no identifiable benefit to the child that would require appointment of counsel at this time because [give explanation from [Cal Rules of Ct 1438\(b\)](#)]./there is a need to appoint counsel for the child at this time. The court appoints [name of attorney] to represent the child].*

(4) *Explanation of procedure*

I am going to explain to you what happens at these juvenile court proceedings. These proceedings are divided into several separate hearings. You have already participated in an initial or detention hearing. Today's hearing is a jurisdiction hearing.

This hearing will determine whether there will need to be a third hearing, called a disposition hearing. If [name of child] is not able to be returned home at the disposition hearing, there may be later hearings that may result in the termination of parental rights.

You are in court today for a jurisdiction hearing. The purpose of this hearing is to decide whether the facts contained in the petition, which [has been/will be] read to you, are true. If the court finds that the facts are not true, the court will dismiss the case. If the court finds them to be true, the court will then conduct a disposition hearing. The purpose of a disposition hearing is to decide what action, if any, the court should take in view of what has been found to have happened.

If the petition is sustained today (that is, if the court finds that the facts are true) and if [name of child] is declared a dependent of the court and removed from the custody of his or her parent or guardian, court-ordered reunification services may not be provided for more than 12 months for a child who is over three years old at the time of removal or six months for a child who was under three years old at the time of removal if the parent or guardian does not participate regularly in a court-ordered treatment program.

Because your child is ____ years old, reunification services are limited to [six/12] months.

Note: See [Cal Rules of Ct 1441\(a\)](#) (applicable to detention hearings). Often the attorney for the parent(s) or guardian(s) will state that he or she has explained these matters to the parent(s) or guardian(s) and will go on to explain the position of the parent(s) or guardian(s). Many judges train attorneys who appear in their courts to take this responsibility.

(5) Notice

[One parent or guardian not present; make sure that the absent parent or guardian received notice of the hearing. If so, state]

The court finds that notice has been given as required by law. The [mother/father/guardian] has failed to appear.

[Both parents or guardian(s) present]

The court finds that the [mother/father/guardian(s)], the child, and all counsel were notified of this hearing and served with the petition as required by law.

[Notice attempted]

The court finds that the following attempts were made to locate the [mother/father/guardian(s)]: [List attempts.]. The court has reviewed the declaration of search and finds that the efforts made to locate and serve the [parent(s)/guardian(s)] were reasonable.

[Insufficient attempts at notice]

The court finds that the Department has not used due diligence in attempting to locate the [parent(s)/guardian(s)]. The case is therefore continued for one day. [The

Department must take the following steps to locate the [parent(s)/guardian(s)]: [List them, e.g., check with Department of Corrections or with child's school.].

Note: Only rarely should a judge dictate to DSS specific search efforts that must be undertaken.

(6) Waiver of reading of petition and advisement of rights

[To each counsel]

Does your client waive reading of the petition and advisement of rights?

(7) Reading the petition

[If not waived, read the petition.]

Does each of you understand the petition just read, or do you have any question about it that you would like to have answered by the court?

Are there any changes to names, addresses, or ages in the petition that should be corrected?

(8) Advisement re addresses under [Welf & IC §316.1](#)

The address that *[is in the petition/you gave the court [at the detention hearing/today]]* will be used by the court and the social worker for all further notices unless you advise the court and the social worker of any changes in address.

(9) Advisement of rights

You have certain rights at this hearing. These are the right to (1) see and hear all witnesses who may be examined by the court at this hearing; (2) cross-examine, which means ask questions of, any witness who may testify at this hearing; (3) present to the court any witnesses or other evidence you may desire; and (4) have a hearing on the issues raised in the petition. You have the right to assert the privilege against self-incrimination *[but anything you say in this or in any other dependency proceeding may not be admissible as evidence in any other action or proceeding]*.

(10) Parent's or guardian's plea

Do you intend to admit or deny the statements contained in the petition?

☛ **JUDICIAL TIP:** Many judges consciously refrain from using language that might frighten the parents. They therefore use the phrase “statements contained in the petition,” rather than “allegations.”

(11) Parent or guardian admits or pleads “no contest”

If you admit or do not contest the facts stated in the petition, the court must make its findings on the basis of the petition and any evidence presented by the Department whether those facts are true or not. Do you understand this situation?

Would you like any further explanation concerning the petition or any of the facts stated in it?

Do you understand that by *[admitting/not contesting]* the facts contained in the petition, the court has only the petition and any evidence presented by the Department on which to base its decision?

Do you have any questions about your right to contest the petition?

Do you understand that if the court takes jurisdiction, it may declare your child a dependent of the court and may then remove *[him/her]* from your home? Do you also understand that if this happens and you are not successful in reunifying within the time limits we discussed previously that your parental rights may be terminated? Do you have any questions about this process?

☛ JUDICIAL TIP: Some judges add here that “termination of parental rights means that some other parents may adopt your child and that you will no longer be the mom or dad. Therefore, it is important to participate fully in the case plan that you have been given.”

Understanding this right and the possible consequences, do you want to proceed at this time to *[admit the allegations/plead no contest]*? Do you admit the truth of the statements contained in the petition?

The court now finds that the parents understand the allegations, have intelligently waived their right to contest the petition, and understand the consequences of their decision.

(12) Parent or guardian denies the allegations or neither admits nor denies them

The *[parent/guardian]*, *[name of parent or guardian]*, does not admit the allegations.

(13) The parent or guardian submits the jurisdictional determination based on information provided in the social worker’s report

[To parent or guardian]

If the court makes findings solely on the basis of the evidence in the social worker’s report, do you understand that you will have given up your right to cross-examine those who prepared the report and to deny the statements found in the report?

The court now finds that the parents understand the allegations, have intelligently waived their right to contest the petition, and understand the consequences of their decision.

[To parent, guardian, and the attorneys]

May the court base its findings solely on the social worker’s report and other documents that it has received?

The court receives into evidence the report dated *[date]*.

Note: The term for the social worker's report varies from county to county. Whatever the local usage, the court must indicate which documents it is relying on.

[Court reads any written reports and attachments and states for the record all material read.]

(14) Parent or guardian denies the allegations or neither admits nor denies them

Now is the time for you to present any evidence or make any statement you may wish to make before the court decides whether allegations in the petition are true.

Note: The judge should orally examine the child, if present, and the parents or other persons with relevant knowledge bearing on the allegations in the petition. The judge should allow cross-examination of any witness who may testify.

(15) Introduction of court process to child witness

Hello. I am Judge [name]. I am in charge of this courtroom, My job is to make sure that everything is fair and that everyone else here does his or her job correctly. This is Bailiff [name]. [He/She] is here to make sure that no one gets hurt. [Mr./Ms.] [name] is the court reporter. [He/She] will write down everything that people say so that if anyone later forgets what was said, we can look it up. It is important to speak loudly and clearly so that [Mr./Ms.] [name] can hear you.

[Mr./Ms.] [names] are the lawyers. They will be asking you some questions. Their job is to help you tell what you saw and heard so that we can find out the truth.

It is very important to tell the truth, because if I do not understand the whole truth, I may not be able to make the plan that is best for everyone.

You will be answering questions this afternoon. We will stop often so that everyone may have a rest. If you have any problems before the next break, let [name of support person/name of attorney/me] know.

Also, you may not understand all the questions. We are used to talking to other adults and not to children. When you don't understand a question, raise your hand and let me know that you don't understand. If you don't know the answer to a question, just say "I don't know" or "I don't remember."

(16) Assessing child's competency

Judges and child development experts suggest assessing a child's communication skills and other aspects of competency by determining whether the child's speech is intelligible and whether the child can stay on a topic. See [THE CHILD VICTIM WITNESS BENCH HANDBOOK APPENDIX A \(CJER 2002\)](#). Following are some suggested conversational openers designed to permit this determination:

Here we are in the courtroom. What do you see here?

What did you do this morning?

[For school-age children]

Tell me about your school.

What do you do when you first get to school?

What do you do after lunch?

— Tell me more about [*specify activities*].

What is your favorite part of the day?

— Tell me more about it.

What is your favorite television program?

— Tell me about it.

— Who is in it?

— What happens in the program?

(17) Right to seek modification

[Once a child has been adjudged a dependent, to the child if at least 12 years old]

You have a right to ask for changes in any of these juvenile court orders by filing a petition for modification under [Welfare and Institutions Code section 388](#). The forms for filing such a petition are available here in the courtroom (see [Welf & I C §353.1](#)). Once you file this petition, you will need to come to court for a hearing.